

New Jersey Highlands Council **Letter 88**

OT	S	RT	DT	EA	F	RI	CE

Attributes

<b>Response Type:</b>	1 - Letter
<b>Delivery Type:</b>	W - Web-based submission
<b>IP Address:</b>	[REDACTED]
<b>Form Letter:</b>	

Web Response

[REDACTED]

Respondent

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<b>Country</b>	UNITED STATES
<b>Created On</b>	4/29/2015 4:08:00 PM

## Comment 1

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Highlands Act

This Act was pushed by special interest groups – Keep It Green, Highlands Coalition, Association of New Jersey Environmental Coalitions (ANJEC,) New Jersey Chapter of Sierra Club

In their constant quest for preservation they push to the extreme, causing economic disaster while professing economic savings. In November these same groups misrepresented to taxpayers their diversion of funding from clean water projects and other cleanup projects with the Open Space Ballot question.

Today these special interest groups are now facing opposition among their own, for overreach. The way in which that ballot initiative demonstrates that some people will say whatever they need to in order to get what they want. Hence the hysteria that created the nitrate dilution model that:

- was never before used
- more restrictive than any other part of the state
- creating large-lot zoning that fractures farmlands and goes against smart growth concept they push

Yet they felt comfortable diverting money from clean up programs that effect urban areas. Do not be confused by the Sierra Clubs' "we were for it before we were against it" campaign. See "Sierra Club Urges Yes Vote on Open Space Ballot Question" at <http://newjersey.sierraclub.org/political/BallotQuestion.asp> prior to election day and the more recent "Open Space Bill Hurts Urban Areas, Parks, and Logs our Forests" at <http://newjersey.sierraclub.org/PressReleases/0565.asp>.

Open space funding is one thing, where everyone is contributing a little bit. But for these groups to push the unjustified nitrate dilution model that stripped value from property owners is another. This nitrate dilution model was the foundation used for the extremely high acreage, or essentially rezoning of an entire area of New Jersey.

This foundation is sand and the Act is like a house built on that sand. It does not make sense to try to repair it now, when its very foundation should be in question.

The simplest way to fix this now is that the DEP change the nitrate dilution rule, which is at the core of the property devaluation. Use a more realistic formula that:

- is in line with other accepted nitrate levels around the state
- takes into account advances in water management since the drought of 1961-66 it is based on.
- Acknowledges devaluation of property will occur and the proposed TDR is no way remotely able to offset the value that has been taken.

### False Narratives:

The nitrate dilution model was based on streamflow, or lack thereof, based on the worse case scenario – the drought of 1961-66. They present this as if there has been no planning put into place to curtail the effects in the future.

Proponents of the act ignore their own research on better septic designs and claims that septic systems can be the most cost-effective method of wastewater treatment. The Association of New Jersey Environmental Commissions (ANJEC) in 2002 published a 12-page resource paper on Septic System Management. The paper can be downloaded at [http://www.anjec.org/pdfs/RP\\_Septic.pdf](http://www.anjec.org/pdfs/RP_Septic.pdf)

This paper discusses nonpoint source (NPS) pollution. These pollutants include:

- Excess fertilizers, herbicides, and insecticides from agricultural lands and residential areas;
- Oil, grease, and toxic chemicals from urban runoff and energy production;
- Sediment from improperly managed construction sites, crop and forest lands, and eroding streambanks;
- Salt from irrigation practices and acid drainage from abandoned mines;
- Bacteria and nutrients from livestock, pet wastes, and faulty septic systems;

Not simply septic systems, but more specifically, faulty ones.

From this list there is a multitude of remedies that could be implemented that would not affect every landowner in 88 municipalities and 7 counties financially. A few ideas include:

- encouraging more hunting would cut down on the contamination of geese and deer feces going into the rivers
- mandating dog licenses in municipalities to limit the number of dogs per square mile and their feces, which if not disposed of properly, work their way into the public water supply
- outlawing Scotts Miracle Grow from being used on people’s lawns
- continue to phase out faulty septic systems, cesspools etc.

### Landowner Compensation

Representatives of ANJEC and the Highlands Coalition will state there was no taking in this act, and discourage any discussion of landowner compensation, because if you entertain compensation, you would have to admit something was taken.

The Highlands Coalition launched an initiative where George Stafford compares home values in areas outside the Highlands and within the Highlands. The issue is not home value as much as it is property value and the devaluation that came about

The TDR Bank was supposed to balance this. This will not work for several reasons:

- the pilot program used for the state is an example of the potential corruption that may take place

[http://articles.philly.com/2009-03-09/news/24984494\\_1\\_transfer-of-development-rights-farm-preservation-programs-land-deals](http://articles.philly.com/2009-03-09/news/24984494_1_transfer-of-development-rights-farm-preservation-programs-land-deals)

- recent funding from PSEG mitigation has been diverted from other projects. This money was never intended for farmland preservation

The PSEG mitigation funds were “To mitigate for unavoidable impacts of the power line on

federal lands, as required by the National Park Service, PSE&G and PPL Electric Utilities will contribute to a fund administered by a nonprofit group. As directed by the National Park Service, the money will be used to purchase or preserve land for public use, compensate for wetlands impacts, and fund cultural and historic preservation activities.” There is no mention of farmland preservation in this package.

<https://www.pseg.com/info/media/newsreleases/2012/2012-10-02.jsp>

– even the board admits the amount allocated is not near enough

– there is no solution for landowners that don’t have property large enough to be considered for preservation but were still impacted

Not that farmland preservation over more purchase of land for public use is bad, but the practice of taking money from one problem to fix another problem just causes us to ignore our real problem on how to really stimulate the economy.

The financial problems keep growing in New Jersey because we are not focused on stimulating the economy. Therefore tax coffers continue to be depleted when expectations are not met. There is not enough money to compensate property owners. Again, the best way to address this entire Act is to go back to the nitrate dilution model and scale back the acreage in the preservation area, and the conforming towns accordingly.

This Act was eminent domain – regulating property rights – but without the compensation.

In a conversation with Bill Wolfe in September or October of 2014, he claimed he was the architect of the nitrate dilution model. He was hired by the Highlands Coalition to push for bigger lot sizes and in his words said he never dreamed he would get his model passed.

In order to do so (again in his words) there was the push for the TDR – the compensation mechanism. The act passed forcing this model on all owners in the preservation area, and as the basis of all acreage determinations in towns that are “conforming.”

## **Comment 2**

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In other parts of the state that pollute their water much more, these types of regulations on building are not being imposed. In fact, permits are being issued to help revitalize these communities. Our communities struggle to keep their water supply clean and they are not even contributing to the fix for themselves.

Recent article:

<http://www.njspotlight.com/stories/15/01/07/state-dep-takes-steps-to-curb-sewage-runoff-into-surface-water/>

## State DEP Takes Steps to Curb Sewage Runoff Into Surface Water

Tom Johnson | January 8, 2015

Some laud state agency for addressing long-standing problems with century-old infrastructure, other dismiss scheme as too little too late

The state is taking steps to address its long-running problems with water quality by dealing with the pollution that flows into New Jersey's waterways when heavy rainfall leads to raw sewage being dumped into surface water.

In the next few weeks, the state Department of Environmental Protection will issue final permits for 25 municipalities and regional sewage authorities to develop long-term strategies to deal with the problem. The issue has long been recognized by policymakers, but largely neglected, partly due to the huge cost, which could run to tens of billion dollars, according to some projections.

Most of the so-called combined sewer-overflow systems (CSOs) -- lines that direct both sewage and storm water to regional treatment facilities -- are in the New York-New Jersey Harbor region. Overall, there are 217 CSO outfalls in the state covered by the draft permits, according to the DEP.

When it rains heavily, the CSO systems cannot handle both the sewage going to wastewater treatment plants and storm runoff, both of which go through the same pipelines.

Each year, more than 7 billion gallons of raw sewage are dumped into New Jersey's waterways. Despite issuing the final permits in the next few weeks, the problem will not be quickly solved. The DEP is giving towns and authorities up to 5 years to develop strategies to reduce the problem, longer to figure out how to end the pollution.

Still, some were enthusiastic that the state is moving to address the problem.

"These permits are going to launch an incredible process to upgrade water infrastructure," said Chris Sturm, senior policy advocate for New Jersey Future, an organization that has been pushing the state to address the issue.

The new initiative not only has the ability to improve water quality and mitigate flooding in urban areas, but also has the potential to revitalize urban areas, Sturm said.

“This new permit framework encourages regional collaboration on planning and development of projects that will provide urban redevelopment opportunities, improve water quality, beautify neighborhoods, and improve the overall quality of life in our urban communities,” said DEP Commissioner Bob Martin in a press release.

The agency is basically recommending two approaches to address the problems posed by CSOs. One would involve projects that encourage cities and authorities to build storage tanks -- as Camden has done -- or lagoons to store storm water for later release, according to Larry Hajna, a spokesman for DEP.

The other would entail green infrastructure projects, such as rain gardens, green roofs, and more urban parks to capture storm water. Financing is available to help design these strategies, according to the DEP.

To some, however, New Jersey is lagging behind other states, which already have developed similar approaches to deal with century-old systems that handle wastewater and storm runoff.

“New Jersey has lagged behind other states for years,” said Jeff Tittel, a frequent critic of the Christie administration. It should have happened 20 years ago. As we keep waiting, we still get raw sewage spilled into our waterways.”

The U.S. Environmental Protection Agency’s Region II office, which covers New Jersey, acknowledged combined sewer overflow systems are a very serious public health and environmental problem in a number of New Jersey communities. “These new permit will help lead the way to improved water quality,” said Joan Leary Matthews, director of the EPA’s Region II Clean Water Division.

The permits address combined sewer outfalls in the following areas: Bayonne (30 outfalls); Camden (28); Camden Municipal Utilities Authority (10); East Newark (1); Elizabeth (28); Fort Lee (2); Gloucester City (7); Hackensack (2); Harrison (7); Jersey City (21); Kearny (5); North Bergen Municipal Utilities Authority, encompassing North Bergen and Guttenberg, (10); Newark (17); North Hudson Sewerage Authority, involving Hoboken, Weehawken and Union (8); North Hudson Sewerage Authority, for West New York (2); Paterson (24); Perth Amboy (16); Ridgefield Park (6); Town of Guttenberg (1); and Trenton (1).

### **Comment 3**

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The nitrate dilution model, which lead to 25/88 acre lots, is also the basis of the acreage for conforming towns. The “Average Lot Size per Septic System by Land Use Capability Zone for Conforming Municipalities in the Planning Area of the Highlands Region” chart shows average lot sizes in these communities ranging from 6.9 (10) to 15.7 (1), with average lot sizes being between 8.0 to 10.9 acres.

[http://www.highlands.state.nj.us/njhighlands/planconformance/avg\\_septic\\_lucz.pdf](http://www.highlands.state.nj.us/njhighlands/planconformance/avg_septic_lucz.pdf)

Is an average person going to purchase and build a house on an 8-10.9 acre lot? These lot sizes are for people with means to build a “McMansion” and maintain the grounds. In this fashion it has limited the growth of the more rural counties because these people also want to be in close proximity to art and culture.

Stated in Resolution #31, Land Use presented at the recent NJ State Agriculture Convention, delegates present “that we are opposed to “downzoning” or large-lot zoning or zoning that has the practical effect of large-lot zoning, because it fractures and consumes farmland, promotes land-consumptive sprawl, and adversely affects landowner equity, and therefore is counter-productive to the principles of smart growth

#### **Comment 4**

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Economic Development

Economic development can help stimulate local economies. The act promotes the idea that tourism in the Highlands would be desirable. But the act has no provisions for funding a tourism mechanism within itself.

To incorporate and fund a tourism initiative would be a step in positive territory, but it would only be a start in the recovery of struggling local economies, like in Warren County. From a business perspective, to launch a tourism business where people have little disposable income does not make for a good business plan. This means one would have to invest a large amount of money in marketing outside the area to people with disposable income.

Over the past ten years people have moved out of the three more rural counties of Hunterdon, Warren and Sussex. All three of these counties had steady climbs in their populations until it reached a plateau and then began to drop over the past few years. This leaves behind shattered economies where tax burdens related to schools and pensions continue to rise, beyond the population’s control. Residents are now responsible for a larger share of taxes. In Warren County’s school system in 2013/14 and out of 21 schools, 17 of them now have lower attendance than they did in 2003-04.

When people move out, that translates to less customers for local businesses like restaurants and shopping centers. This carries over to service businesses like contractors, electricians, plumbers, as less people are taking on home improvement projects, expansions or building in general. This translates to less permitting and fees collected at the municipal and county level.

We want business to move in but there is no customer base to support them. We must target out of state or out of county visitors to rebuild a customer base. This can be done through generic destination marketing and the Highlands Council. But this will be a slow process and require a

financial commitment from the Council to the municipalities and counties.

The act puts us at a disadvantage with neighboring states that are included in the federally designated Highlands area. The Highlands run through Pennsylvania, New York and Connecticut, but none of those states have imposed such harsh restrictions. While they are eligible for the same funding for preservation. In a failing New Jersey economy this further exacerbates the problem of those counties on the borders of Pennsylvania and New York.

Yet the taxes have increased. The Highlands Act certainly does not cause the school budget to rise, but it did disrupt the natural ebb and flow of local community economics. People are leaving the County and the State. As Warren County is in close proximity to PA, where both taxes and regulation are lower and job opportunities are higher, this puts us at a disadvantage.

This has hurt the economy of New Jersey and not helped it. I speak in terms of the entire state because what happens in one part of the state does ultimately affect the other.

When a business leaves the state it hurts tax revenue collected at the state level as well as the local level.

When people lose their jobs and collect unemployment, relief comes from the New Jersey's Unemployment Insurance Trust Fund. When that fund runs low it triggers an automatic tax increase on employers.

Locally, it was meant to stop the development that brings on urban sprawl, but it succeeded in stopping much more. The Act claims to want to stop urban sprawl, but when you think of urban sprawl you think of acres of townhouses or houses on quarter acre lots, something that most municipalities in our area were already addressing by increasing lot sizes. The Act made the lot sizes in the preservation area 25/88 acres. This formula is used for a sliding scale that then determines lot sizes in conforming towns.

Looking at the lot size determination for those conforming municipalities, the average is about 10 acres. This size lot is akin to estate homes, of which the most rural counties are less likely to attract.